

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

KEVIN RAY HARPER SR #755603

CIVIL ACTION NO. 24-cv-1124 SEC
P

VERSUS

JUDGE TERRY A. DOUGHTY

NOLEN BASS ET AL

MAG. JUDGE KAYLA D.
MCCLUSKY

ORDER

The Report and Recommendation and Supplemental Report and Recommendation [Doc. Nos. 11, 12] of the Magistrate Judge having been considered, together with the written Objection [Doc. No. 13] filed by *pro se* Plaintiff, Kevin Ray Harper Sr. (“Harper”), and after a *de novo* review of the record, the Court declines to adopt the Magistrate Judge’s Report and Recommendations.

The Magistrate Judge recommended that the Court dismiss Harper’s claims concerning the conditions of confinement at Tensas Parish Detention Center as legally frivolous and for failing to state claims on which relief may be granted. [Doc. No. 12 at 3]. The Magistrate Judge considered the Fifth Circuit’s related case, *Robertson v. Bass*, No. 24-30395, 2025 WL 416994, at *1 (5th Cir. Feb. 6, 2025), and noted that Harper failed to allege particular facts to support a claim of an Eighth Amendment violation. [Id.]. However, Harper’s Objection to the Report and Recommendations raised relevant new facts in support of his claim that were not previously before the Magistrate Judge.

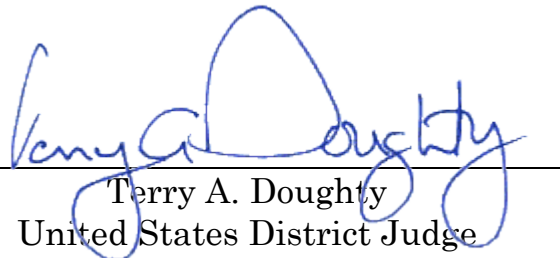
The Court must “liberally construe pleadings made by *pro se* plaintiffs.” *Johnson v. Epps*, 479 F. App'x 583, 587 (5th Cir. 2012) (citing *Johnson v. Atkins*, 999 F.2d 99, 100 (5th Cir. 1993)). And “when justice so require[s],” a *pro se* “opposition to a magistrate judge’s report and recommendation should [be] construed by the district court as [a motion] to amend the complaint.” *Johnson*, 479 F. App’x at 587 (acknowledging that the district court should have construed *pro se* plaintiff’s objection the Report and Recommendation as a motion to amend his complaint clarifying his Eighth Amendment claims).

Accordingly, Harper’s Objection to the Magistrate Judge’s Report and Recommendations is be construed as a Motion to Amend, and his request should be granted. *See Johnson*, 479 F. App’x at 589 (finding that an amendment was warranted because “these allegations to the complaint will enable [the plaintiff] to state a claim for relief under the Eighth Amendment.”). For those reasons,

IT IS ORDERED that Harper’s Objection to the Magistrate Judge’s Report and Recommendations [Doc. No. 13] is construed as a Motion to Amend, and the Clerk of the Court is requested to file the Objection as an Amended Complaint.

IT IS FURTHER ORDERED that this matter is referred to the Magistrate Judge for further review.

MONROE, LOUISIANA, this 27th day of March, 2025.



Terry A. Doughty
United States District Judge